



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/24/1284**

**Property : 3F2, 27 Rossie Place, Edinburgh EH7 5RX (“Property”)**

**Parties:**

**Ailsa Currie, Bellevue Farm, Shiskene, Isle of Arran KA27 8EX and Richard Walkinshaw (Jnr), Kilbrannan Cottage, Pirnmill, Isle of Arran KA27 8HP as executors on the estate of the late Richard Walkinshaw (“Applicant”)**

**Harper Macleod, 45 Gordon Street, The Ca’d’oro Building, Glasgow G1 3PE (“Applicant’s Representative”)**

**Christain Di Lisi, 3F2, 27 Rossie Place, Edinburgh EH7 5RX (“Respondent”)**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Jane Heppenstall (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to dismiss the Application.**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Private Tenancy Agreement which commenced on 1 February 2019; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 22 December 2023 ("Notice to Leave"); copy royal mail proof of posting on 22 December 2023; rent statement; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 14 March 2024 and sheriff officer's execution of service certifying service of the Application on the Respondent on 13 August 2024.

**Case Management Discussion (“CMD”)**

A CMD took place before the Tribunal on 13 September 2024 by teleconference. The Applicant was represented by Mrs Di Carlo of the Applicant’s Representative. The Respondent was not in attendance.

Mrs Di Carlo told the Tribunal that the Applicant had not had recent contact with the Respondent. She said that the rent had not been paid since June 2023 and that the arrears were in the region of £9,300. She said that the Applicant were the executor nominate on the estate of their late father and their intention is to sell the Property with vacant possession. Mrs Di Carlo said that the Applicant had spoken with the Respondent in January 2024 when he had confirmed receipt of the Notice to Leave. She said the Applicant had attempted to contact the Respondent since then by text message but he had not engaged with them. Mrs Di Carlo had no background information about the Respondent such as whether any dependents lived in the Property with him.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. Richard Walkinshaw and the Respondent entered into a Tenancy Agreement which commenced on 1 February 2019.
2. The Notice to Leave was served by recorded delivery post on 22 December 2023.
3. At the date of service of the Notice to Leave and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 14 March 2024.

### **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies. In the Notice to Leave the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 12 which is that the tenant has been in rent arrears for three or more consecutive months.

The Tribunal considered the statement of rent arrears provided and determined that ground 12 had been established. Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order

## **Decision**

The Tribunal grants an order for possession of the Property.

## **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

# J Devine

**Joan Devine  
Legal Member**

**Date : 13 September 2024**